

Remarks

Non-elected claims are canceled. Non-elected species of proteins are canceled from claim 23. Claim 23 is amended to recite identifying tumor endothelial cells. This is supported in the specification at page 48, lines 8-23. Claim 23 is also amended to specify that the population of cells contacted contains endothelial cells, as would be required in order to identify such cells in the population according to the subsequent steps. Claim 23 is also amended to recite that the population of cells is a population of tumor cells. This is supported in the specification at page 39, lines 2-6. New dependent claims 26-27 recite sources of the population of cells tested as disclosed at page 48, last three lines.

Rejection of Claims 23 and 24 Under 35 U.S.C. § 102(e)

Claims 23 and 24 are rejected as anticipated by Long et al., U.S. Patent Application Publication 20040214241. This rejection is respectfully traversed.

Long is cited as teaching a method of obtaining a population of osteoblasts using an anti-osteonectin antibody. The rejection urges that Long *inherently* teaches the claimed method because the active steps are the same as in the claims.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The elements must be arranged as required by the claim, but this is not an *ipsissimis* verbis test, *i.e.*, identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990.)

Claim 23 has been amended to recite that the population of cells which is contacted with the one or more antibodies which bind to osteonectin is a population of tumor cells. The population of cells which Long teaches is from bone marrow. See [0028] and [0034]. Long does not teach contacting a population of tumor cells with an antibody as recited in the first step of claim 23. Thus Long does not anticipate the method of claim 23. For the same reasons, Long does not anticipate dependent claims 24, 26, and 27.

Withdrawal of the rejection is respectfully requested. No other issues of patentability remain. Allowance of all claims is respectfully requested.

Respectfully submitted,

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